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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/651,447	08/29/2003	Charles Won	1750.01	8749

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EXAMINER
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BUI, LUAN KIM

ART UNIT	PAPER NUMBER
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3728

DATE MAILED: 08/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/651,447

Applicant(s)

WON ET AL.

Examiner

Luan K. Bui

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 16-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>8/29/03</u> . | 6) <input type="checkbox"/> Other: _____  |

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1. Claims 16-18 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 6/30/2005.

***Information Disclosure Statement***

2. Applicant is requested that **not** to file a form PTO-1449 without documents or other art listed to avoid confusion to the system.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 2-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 2, the phrase "the a" should be replaced with --a--.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Kramer (5,797,507). Kramer discloses a pumpkin-shaped container (20) comprising a first half (22A), a second half

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(22B) and a fastener to detachably attach the first half and the second half together. The first half and the second half form a hollow main body when the first half and the second half are assembled by engaging the fastener and the main body comprises a top opening (38 and column 3, lines 28-29) for access into the main body and a decorative portion (42, 44, 46).

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 2 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kramer (5,797,507) in view of Kramer et al. (6,619,810; hereinafter Kramer'810) and Lounsbury (4,923,080). Kramer further discloses a mating line (24) between the first half and the second half disposed parallel to the top opening. Kramer discloses the pumpkin-shaped container (20) as above having all the limitations of the claims except for the top opening being disposed in a top portion of the container and the mating line being disposed perpendicular to the top opening. Kramer'810 shows a pumpkin-shaped container (20) having a top opening disposed in a top portion of the container (Figure 2). Lounsbury teaches a container (10) comprising a main body (30) having a top opening and a mating line (34-38) disposed perpendicular to the top opening. It would have been obvious to one having ordinary skill in the art at the time the invention was made in view of Kramer'810 and Lounsbury to modify the container of Kramer so the top opening disposed at a top portion of the main body between the first half and the second half as

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taught by Kramer'810 for better access to the contents within the container and the mating line disposed perpendicular to the top opening as taught by Lounsbury for better opening the halves.

9. Claims 3-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 2 above, and further in view of Maute (2003/0230498). It appears that Kramer discloses a plurality of fixing projections (32B) and a plurality of fixing recesses (32A). To the extent that Kramer fails to show a plurality of fixing projections and a plurality of fixing recesses, Maute teaches a container (100) comprising a first half (606) having a fixing projection (812) for engaging a fixing recess (822) on a second half (604). It would have been obvious to one having ordinary skill in the art in view of Maute to modify the container of Kramer as modified so the container comprises a plurality of fixing projections and a plurality of fixing recesses to facilitate closing the container.

10. Claims 8-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 2 above, and further in view of Goto et al. (5,379,911; hereinafter Goto'911). The container of Kramer as modified further fails to show the fastener comprises an upper fastener and a lower fastener includes a hinge. Goto'911 shows a fastener for a container comprising an upper fastener (9) and a lower fastener (3) comprising a hinge. It would have been obvious to one having ordinary skill in the art in view of Goto'911 to modify the fastener of Kramer so the fastener comprises an upper fastener and a lower fastener includes a hinge positioned on the mating line between the first half and the second half for better securing the first half to the second half.

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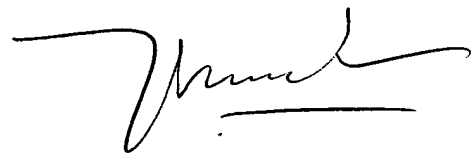
As to claims 9-12, the selection of the specific fastener for locking the first half to the second half as claimed would have been an obvious matter of design choice of art recognized equivalent methods for locking and inasmuch as a number of different ones appear to be suitable and inasmuch as applicant's specification does not state that using these specific features as claimed solves any particular problem or yields any unexpected results.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luan K. Bui whose telephone number is (571) 272-4552. If in receiving this Office Action, it is apparent to Applicant that certain documents are missing from the record for example copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Ms. Errica Miller at (571) 272-4370.

Any inquiry of a general nature or relating to the status of this application should be directed to the Customer Service whose telephone number is (703) 306-5648. Facsimile correspondence for this application should be sent to (571) 273-8300 for Formal papers and After Final communications.

lkb  
August 11, 2005

A handwritten signature in black ink, appearing to read 'Luan K. Bui', with a horizontal line underneath the name.

Luan K. Bui  
Primary Examiner